

**Amend Sections 237, 254, 270, and 271 of, and add Section 259.13 to, the Revenue and Taxation Code to provide filing requirements, late filing relief and post lien date acquisition relief for the Indian tribal low-income housing exemption and to conform the definition of “low-income” to that of the federal Native American Housing and Self Development Act and other housing financing programs.**

**Source: Honorable John Chiang**

Under Section 237, rental housing owned and operated by a federally recognized Indian tribe or its tribally designated housing entity (TDHE) is exempt from property tax to the extent that the housing is occupied by low-income tenants, and at least 30% of the *units* are occupied by low-income tenants. The exemption is independent of the welfare exemption and is not cross-referenced in any of the other administrative provisions for exemptions. This has resulted in various uncertainties that require resolution in order to administer the exemption.

This proposal would provide filing deadlines, late filing relief and post-lien date acquisition relief for this exemption and would provide the administrative and relief provisions already in place for the other low-income housing exemptions. More substantive, this proposal would set forth the requirements for the tribal housing exemption affidavit and add the low-income limits for applicable federal, state, and local financing assistance to the definition of “lower income household” in Section 237.

The following suggested changes are simply intended to provide clarity and consistency for the administration of the newly created exemption.

**Filing Deadline.** This proposal would add the tribal housing exemption to the list of exemptions in Section 254, whose claimants “shall submit to the assessor annually an affidavit, giving any information required by the board.” Inclusion of the tribal housing exemption in Section 254 would automatically add the “tribal housing exemption” to the provision in Section 255 requiring the claim to be filed between the lien date (January 1) and February 15. (Note: Section 255 provides in relevant part: (a) Affidavits required for exemptions named in this article, exempt the homeowners' exemption, shall be filed with the assessor between the lien date and 5 p.m. on February 15.)

**Late Filing Relief.** This proposal would add the “tribal housing exemption” to the exemptions listed in existing Section 270 so that tribes or TDHEs that file after the February 15<sup>th</sup> date would be entitled to the cancellation of 85-90% of the tax, with a maximum assessment of \$250 if they file before the subsequent lien date. This would provide tribes and TDHEs the same late filing relief for tribal housing as is now available for other exempt housing.

**Post-Lien Date Acquisition Relief.** This proposal would add the “tribal housing exemption” to the exemptions listed in Section 271 so that tribal housing property acquired after the lien date could be exempted from all supplemental assessment if acquired during the previous tax year and from most supplemental assessment if acquired during the subsequent tax year. Again, this would provide to tribal housing the same acquisition relief now available to all other exempt housing.

**Annual Affidavit Requirements.** This proposal would provide specific and state-wide filing and affidavit requirements for tribal housing, similar to the requirements for other exempt housing.

**Expansion of Definition of Lower Income Households to Include Financing Programs or Agreements.** To make the determination of eligibility for the exemption the assessor would be required to have a certification from the tribe or TDHE that at least 30% of the units are occupied by tenants from “lower income households”. The existing statute defines “lower income household” by reference to Health and Safety Code Section 50079.5, which in turn references an annual listing of household income limits broken down by county and household size derived from the US Department of Housing and Urban Development (HUD) statistics. Although derived from the same HUD statistics, the “low-income” definition for the major funding program for low-income tribal housing programs (NAHASDA, the Native American Housing and Self Development Act) can vary somewhat from the Department of Housing and Community Development (HCD) figures, potentially requiring the tribes and tribal housing authorities to perform multiple tenant income verifications for program and tax exemption eligibility. Although the current statute takes into account differences between the allowable rental charges under the Health and Safety Code and the applicable financing program, the income limits are tied exclusively to the HCD figures through Section 50079.5.

This proposal would change the definition of “lower income household” to include a household that came within the strictures of the applicable federal, state, or local financing assistance program or agreement, even if outside the HCD limits.

*Section 254 of the Revenue and Taxation Code is amended to read:*

254. Any person claiming the church, cemetery, college, exhibition, welfare, veterans' organization, free public libraries, free museums, aircraft of historical significance, tribal housing or public schools property tax exemption and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually an affidavit, giving any information required by the board.

*Section 270 of the Revenue and Taxation Code is amended to read:*

270. (a) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities, tribal housing or welfare exemption was available but for which a timely application for exemption was not filed:

(1) Ninety percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the exemption was not claimed by a timely application.

(2) If the application is filed after the date specified in paragraph (1), 85 percent of any tax or penalty or interest thereon shall be canceled or refunded provided an appropriate application for exemption is filed and relief is not authorized under Section 214.01 or 271.

(b) Notwithstanding the provisions of subdivision (a), any tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (a) for which an appropriate claim for exemption has been filed.

(c) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

*Section 271 of the Revenue and Taxation Code is amended to read:*

271. (a) Provided that an appropriate application for exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired, any tax or penalty or interest imposed upon:

(1) Property owned by any organization qualified for the college, cemetery, church religious, exhibition, veterans' organization, tribal housing or welfare exemption that is acquired by that organization during a given calendar year, after the lien date but prior to the first day of the fiscal year commencing within that calendar year, when the property is of a kind that would have been qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption is it had been owned by the organization on the lien date, shall be canceled or refunded.

(2) Property owned by any organization that would have qualified for the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing or welfare exemption had the organization been in existence on the lien date, that was acquired by it during that calendar year after the lien date in that year but prior to the commencement of that fiscal year, and of a kind

that presently qualifies for the exemption and that would have so qualified for that fiscal year had it been owned by the organization on the lien date and had the organization been in existence on the lien date, shall be canceled or refunded.

(3) Property acquired after the beginning of any fiscal year by an organization qualified for the college, cemetery, church religious, exhibition, veterans' organization, tribal housing or welfare exemption and the property is of a kind that would have qualified for an exemption if it had been owned by the organization on the lien date, whether or not that organization was in existence on the lien date, shall be canceled or refunded in the proportion that the number of days for which the property was so qualified during the fiscal year bears to 365.

(b) Eighty-five percent of any tax or penalty or interest thereon imposed upon property that would be entitled to relief under subdivision (a) or Section 214.01, except that an appropriate application for exemption was not filed within the time required by the applicable provision, shall be canceled or refunded provided that an appropriate application for exemption is filed after the last day on which relief could be granted under subdivision (a) or Section 214.01.

(c) Notwithstanding subdivision (b), any tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount shall be canceled or refunded provided it is imposed upon property entitled to relief under subdivision (b) for which an appropriate claim for exemption has been filed.

(d) With respect to property acquired after the beginning of the fiscal year for which relief is sought, subdivisions (b) and (c) shall apply only to that pro rata portion of any tax or penalty or interest thereon which would have been canceled or refunded had the property qualified for relief under paragraph (3) of subdivision (a).

*Section 259.13 is added to the Revenue and Taxation Code to read:*

259.13 (a) Affidavits for the tribal housing exemption shall be filed on or before February 15 of each year with the assessor. Affidavits of claimants filing for the first time for a particular property shall be accompanied by

(1) The documents required by subdivision (c) of section 237.

(2) A description of the property for which the exemption is claimed, including the entire project property and the portion for which exemption is claimed. If the property includes units, which do not qualify for the exemption, the description must list the qualifying and non-qualifying units.

(3) An affidavit by the claimant that the property for which exemption is claimed meets the income and rental requirements for the exemption and listing the number of occupants in each unit for which the exemption is claimed and the income and rental limits applicable for each such household. Tenant affidavits verifying household size and income should be on file with the claimant for each exempt unit.

(a) Once the exemption has been granted to a particular tribe or tribally designated housing entity, documents establishing that the tribe is federally recognized and that the housing entity has been designated by the tribe need not be resubmitted for additional years or additional properties of that tribe or tribally designated housing entity.

(b) Once the exemption has been granted for a particular property, it is not necessary to re-submit documents establishing that there is legally binding restriction on the use of that property in succeeding years for as long as the legally binding restriction is in effect.

(c) Upon any indication that a tribal housing exemption has been incorrectly allowed, the assessor shall make a re-determination of eligibility for the tribal housing exemption. If the assessor determines that the property or any portion thereof is no longer eligible for the exemption, he or she shall immediately cancel the exemption on so much of the property as is no longer eligible for exemption.

(e) If a tribal housing exemption has been incorrectly allowed, an escape assessment as allowed by Article 4 (commencing with Section 531) of Chapter 3 in the amount of the exemption with interest as provided in Section 506 shall be made, together with a penalty for failure to notify the assessor, where applicable, in the amount of 10 percent of the assessment.

*Section 237 of the Revenue and Taxation Code is amended to read:*

237. (a)(1) Subject to the requirements set forth in paragraph (2), there is exempt from taxation under this part that portion of the assessed value of property, owned and operated by a federally designated recognized Indian tribe or its tribally designated housing entity, that corresponds to that portion of the property that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, ~~to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section,~~ rents that do not exceed those prescribed by the terms of the applicable federal state or local financing agreements or financial assistance agreements.

(2) The exemption set forth in subdivision (a) applies only if the property and entity meet the following requirements:

(A) At least 30 percent of the property's housing units are either continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code or applicable federal, state or local financing agreements, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, ~~to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section~~ rents that do not exceed those prescribed by the

terms of the applicable federal, state or local financing agreements or financial assistance agreements.

(B) The housing entity is nonprofit.

(C) No part of the net earnings of the housing entity inure to the benefit of any private shareholder or individual.

(b) In lieu of the tax imposed by this part, a tribe or tribally designated housing entity may agree to make payments to a county, city, city and county, or political subdivision of the state for services, improvements, or facilities provided by that entity for the benefit of a low-income housing project owned and operated by the tribe or tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county, or political subdivision of the state of the services, improvements, or facilities to be provided.

(c) A tribe or tribally designated housing entity applying for an exemption under this section shall provide the following documents to the assessor:

(1) Documents establishing that the designating tribe is federally recognized.

(2) Documents establishing that the housing entity has been designated by the tribe.

(3) Documents establishing that there is a deed restriction, agreement, or other legally binding document requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a).

(d) This exemption shall be known as the "tribal housing exemption."